

THE COUNTY BULLETIN

And Uniform Compliance Guidelines

ISSUED BY STATE BOARD OF ACCOUNTS

Vol. No. 333

July 2001

REMINDER OF ORDER OF BUSINESS

July

- 1 On or before this date the county treasurer shall certify a list of real estate delinquencies for tax sale. (IC 6-1.1-24-1)

On or before July 1 of each year, each county assessor shall certify to the county auditor the assessment value of the personal property in every taxing district. (IC 6-1.1-3-17)
- 2 On or before this date, the county auditor should receive County Form 144 from officers, boards, commissioners and agencies "Statement of Salaries and Wages Proposed to be Paid Officers and Employees." (IC 36-2-5-4) The county auditor shall present these forms to the county executive at its July meeting. The county executive shall review and make its recommendations. Before August 20 the county executive shall present County Form 144 and its recommendations to the county fiscal body.
- 4 Legal Holiday - Independence Day (IC 1-1-9-1)
- 9 On or before this date make distribution of Dog Fund apportionment from Auditor of State - second Monday. (IC 15-5-9-11)

Distribute congressional interest to school corporations - second Monday. (IC 21-1-1-54)
- 15 In those counties participating in Public Employees' Retirement Fund, last day to make pension report and payment for the second quarter of 2001 to the Public Employees' Retirement Fund.
- 20 Last day to report and make payment of balance of State and County Income Tax withheld in the month of June to Indiana Department of Revenue.
- 31 Last day to file quarterly unemployment compensation reports with Indiana Employment Security Division.

Last day for county treasurer to mail demand notices to delinquent personal property taxpayers. (IC 6-1.1-23-1)

August

- 1 First day annual tax sale can be held. (IC 6-1.1-24-2(a)(9))
- 8 Last date for county officers and department heads to file the respective budget estimates with county auditor - Wednesday following first Monday in August. (IC 36-2-5-9)

**COUNTY BULLETIN
and Uniform Compliance Guidelines**

Volume 333, Page 2

July 2001

REMINDER OF ORDER OF BUSINESS
(Continued)

- 19 Last date for board of commissioners to review "Statements for Salaries and Wages Proposed to be Paid Officers and Employees" and to make its recommendations to the county council. (IC 36-2-5-4(b))
- 20 Last day to report and make payment of State and County Income Tax Withheld in the month of July to Indiana Department of Revenue.
- 22, 23,
24 County Treasurer's Annual Conference - Radisson, Merrillville, Indiana.
- 31 Last date for first publication of county budget (10 days prior to public hearing). (IC 6-1.1-17-3)

September

- 3 Legal Holiday - Labor Day. (IC 1-1-9-1)
- 7 Last date for second publication of county budget (7 days after the first publication and at least 3 days before public hearing). (IC 5-3-1-2)
- 10 Last date for budget public hearing (10 days prior to adoption). (IC 6-1.1-17-5(a))
- 16 Last date for taxing officials to file copies of budgets and tax levy with county auditor for presentation to County Tax Adjustment Board. (IC 6-1.1-17-5(d))
- 18 First meeting of County Tax Adjustment Board, if applicable. (IC 6-1.1-29-4) (On September 18 or on first business day after, if September 18 is not a business day.)
- 19-20 Last date to comply with provisions of IC 36-2-5-11, "Each ordinance shall be read on at least two separate days before it's final adoption."
- 20 Last date county council may meet to determine budgets and tax rates. (IC 6-1.1-17-5(a)(3))

Last day to report and make payment of State and County Income Tax withheld in the month of August to Indiana Department of Revenue.

TAX INCREMENT FINANCE (TIF) - STATE PROPERTY TAX REPLACEMENT CREDIT (PTRC)

In those counties where the additional credit allowed by the redevelopment commission is the same as the State PTRC, IC 36-7-14-39.5 (d) states that the additional credit and the State PTRC are to be computed on an aggregate basis for all taxpayers in a taxing district and shall be combined on the tax statements sent to each taxpayer.

**COUNTY BULLETIN
and Uniform Compliance Guidelines**

Volume 333, Page 3

July 2001

ALLOCATION OF PENALTIES COLLECTED FOR FAILURE TO TIMELY REGISTER MOTOR VEHICLES

IC 9-18-2-1 and IC 9-17-2-1 states that within sixty (60) days of becoming an Indiana resident, a person must register and title all motor vehicles owned by the person that:

- (1) are subject to the motor vehicles excise tax under IC 6-6-5; and
- (2) will be operated in Indiana

A person must produce evidence concerning the date on which the person became an Indiana resident.

A person who is a resident of Indiana must register in Indiana all motor vehicles operated in Indiana. However, a person who is a resident of Indiana and who has a legal residence in a state that is not contiguous to Indiana may operate a motor vehicle in Indiana, for no more than sixty (60) days, without registering the motor vehicle in Indiana. A person who violates this section commits a Class C infraction. In addition to the penalty described in IC 9-18-2-40 and any judgment assessed under IC 34-28-5, a person who violates this section shall be assessed a judgment equal to the amount of the excise tax due on the vehicle under IC 6-6-5.

IC 9-18-2-41 states the clerk shall collect the additional judgment in a amount specified by a court order and transfer the additional judgment to the county auditor on a calendar year basis. The auditor shall distribute the funds to the law enforcement agencies, including the state police, responsible for issuing citations to enforce section 1 of this chapter. The percentage of the funds distributed to a law enforcement agency must equal the percentage of the total number of citations issued during the applicable year and shall be used for any law enforcement purpose including contributions to the pension fund of the law enforcement agency.

To facilitate the handling and allocation of these fees the following procedures should be observed.

1. The Clerk of the Court which collects these judgments must include a memorandum with the remittance which shows the number of citations filed in the court by each law enforcement agency for failure to timely register a motor vehicle. Such memorandum could be as follows:

<u>Law Enforcement Agency</u>	<u>Number of Citations</u>
_____ County Sheriff	6
Urban City Police	2
Best Town Marshal	<u>2</u>
Total	<u>10</u>

2. The amount received from the Clerk would be receipted to a fund called "Additional Excise Tax Judgments."
3. The amount receipted to the Additional Excise Tax Judgments Fund would then be multiplied by the percentage of the total citations which were filed by each law enforcement agency during the applicable period to determine the amount due each law enforcement agency.

**COUNTY BULLETIN
and Uniform Compliance Guidelines**

Volume 333, Page 4

July 2001

**ALLOCATION OF PENALTIES COLLECTED FOR FAILURE TO TIMELY REGISTER MOTOR VEHICLES -
(Continued)**

Using the number of citations shown in Item 1 above an example of a worksheet to determine the allocation of funds is as follows:

Amount Received From Court \$450.00

<u>Law Enforcement Agency</u>	<u>Number of Citations</u>	<u>Percentage of Total</u>	<u>Amount Due Agency</u>
_____ County Sheriff	6	60%	\$ 270.00
Urban City Police	2	20%	90.00
Best Town Marshal	<u>2</u>	<u>20%</u>	<u>90.00</u>
Totals	<u>10</u>	<u>100%</u>	<u>\$ 450.00</u>

4. After the amount due each law enforcement agency is determined a warrant should be issued to the disbursing officer of the particular governmental unit for the amount due. The warrant should be accompanied by a brief explanation showing the purpose of the distribution.
5. The amount due the county on account of citations filed by the sheriff's department should be receipted by quietus to a fund called "Motor Vehicle Registration Penalties." This fund can be expended for any law enforcement purpose. However, disbursement should be by county warrant and only after a duly itemized claim has been approved by the Board of County Commissioners.
6. Any amount due on account of citations issued by the State Police would be sent to the Auditor of State.

VACATION AND SICK LEAVE

It is extremely important for all counties to have written policies concerning vacation and sick leave. If your county has not done this please urge the board of county commissioners to establish a policy as provided by IC 5-10-6-1.

FORFEITURES OF TEN PERCENT (10%) CASH BONDS

The following items should be kept in mind in regard to ten percent (10%) cash bonds:

1. An administrative fee of not to exceed ten percent (10%) of the cash bond or \$50, whichever is less, may be retained. (IC 35-33-8-3.2)
2. If any assigned counsel represents the defendant and there are publicly paid costs of representation, the costs of this representation should be retained from the ten percent (10%) cash bond and receipted to the supplemental public defender services fund. (IC 35-33-8-3.2)
3. If any fines, costs, fees, and restitution is ordered by the court, this should be retained by the clerk.

**COUNTY BULLETIN
and Uniform Compliance Guidelines**

Volume 333, Page 5

July 2001

FORFEITURES OF TEN PERCENT (10%) CASH BONDS - (Continued)

4. If the cash bond is ordered forfeited, any amount remaining after the deduction of the administrative fee, the fines, costs, fees, and restitution, and the supplemental public defender services fee should be transferred to the state common school fund.

JAIL COMMISSARY FUND - COPY OF RECORDS TO BE FURNISHED TO THE COUNTY COUNCIL

IC 36-8-10-21(e) requires the sheriff to maintain a record of the jail commissary fund's receipts and disbursements. Such records shall be maintained on General Form No. 358, Ledger of Receipts, Disbursements and Balances. The Sheriff shall semiannually provide a copy of such record to the county council.

COUNTY RECORDING FEES

IC 36-2-7-10 provides that the county recorder shall tax and collect the fees and amounts provided within this statute for services rendered by the recorders. However, the county recorders may not tax or collect any fee for:

1. Recording an official bond of a public officer, a deputy, an appointee, or an employee; or
2. Performing any service under any of the following:
 - IC 6-1.1-22-2(C)
 - IC 8-23-7
 - IC 8-23-23
 - IC 10-5-4-3
 - IC 10-5-7-1(A)
 - IC 12-14-13
 - IC 12-14-16.

The statute further provides that the state and its agencies and instrumentalities are required to pay the recording fees and charges that this section prescribes.

Therefore, it is our audit position that the proper recording fees are to be charged for services provided to the county and other political subdivisions unless it is the recording of an official bond under item 1 above or any of the services listed in item 2.

**COUNTY BULLETIN
and Uniform Compliance Guidelines**

Volume 333, Page 6

July 2001

GUARANTEED ENERGY SAVINGS CONTRACTS

Undocumented Claims

Please be aware we have noted in audits of "guaranteed energy savings contracts" instances of references to "stipulated savings", "agreed-upon savings", "mutually agreed-upon savings", "capital cost savings", "repair costs", "capital cost avoidance", etc. Some of these items are deemed realized upon the execution of the contract. We are noting in many instances that no documentation or other supporting information is presented for audit to document or support savings in energy and operating costs due to the energy conservation measures. Furthermore, some counties have been provided information by the contractor awarded the contract, that certain costs such as "avoidance of future capital costs" could be considered operating savings. However, these types of costs are generally the energy conservation measures themselves such as capital outlay or fixed asset type of items in nature (i.e., the cost of a new roof, the cost of new windows, or the avoidance of future costs thereof). These terms and procedures, for audit purposes, generally are not considered an acceptable substitute for documentation of energy and operating cost savings.

Documented Savings

Detailed utility bills may be an acceptable documentation of energy savings. Additionally, reasonable documented costs associated with reduced maintenance may be an acceptable operating cost savings. An example might be that five minutes is required to change a light bulb. Bulbs are now, because of capital outlays for energy conservation measures, not changed every year. If 4000 bulbs are normally changed each year, a maintenance person might be saved from doing 333 hours of bulb changing, which at a \$12 an hour could equate to a \$3996 operating cost savings.

Operating Expenditures-Accounting Terminology

Governmental Accounting, Auditing and Financial Reporting (GAAFR) issued by the Government Finance Officers Association, 1994, page 368, defines Operating costs and Capital costs as: (1) **Current operating expenditures** primarily benefit the current fiscal period. (2) **Capital outlays** benefit both the current and future fiscal periods.

Accounting texts, including Principles of Accounting, revised 1989, by Helmkamp, Imdieke and Smith, differentiate between operating and capital expenditures as "Expenditures made to acquire, improve, and maintain plant assets are either capital expenditures or revenue expenditures. Capital expenditures are those that add to the usefulness of a plant asset for more than one accounting period . . . Revenue expenditures are those that benefit the current accounting period only."

An Introduction to Guaranteed Energy Savings Contracts for Public Schools and Local Governments, published by the Indiana Department of Commerce, Energy Policy Division, states in part on page 9: "If repairs are required before an energy conservation measure can be implemented, then those repairs must be made separate from the guaranteed energy savings contract. Structural repairs of a facility are not energy conservation measures. For example, the addition of insulation to the roof or walls of a building may be covered under a guaranteed energy savings contract. Repairs or replacement of the roof or walls, however may not."

An Introduction to Guaranteed Energy Savings Contracts for Public Schools and Local Governments, published by the Indiana Department of Commerce, Energy Policy Division, states on pages 14 and 15: "As required by IC 36-1-12.5, the provider must guarantee that the savings in energy and operating costs due to the energy conservation measures will cover the costs of the payments for the measures. If the actual savings are less than the guaranteed savings, the provider must reimburse the political subdivision for the difference. It is important to note that the savings must be **actual reductions** in the organization's costs and must also be the direct result of an energy conservation measure . . . Political subdivisions should be very cautious when

**COUNTY BULLETIN
and Uniform Compliance Guidelines**

Volume 333, Page 7

July 2001

Guaranteed Energy Savings Contracts - (Continued)

dealing with operating cost savings. Providers have been known to inflate or manipulate operating cost savings in order to justify or sell a project. Operating cost savings may be included in a guaranteed energy savings contract only when they (1) are the direct result of an energy conservation measure, (2) represent a reduction in actual costs, and (3) result from the normal operation of the equipment or building. Other forms of operating cost savings are simply a "shell game" and will not result in the true savings needed to pay for the costs of the measures . . ."

Statutory Considerations

IC 36-1-12.5-5(a) concerning energy savings contracts states in part "The governing body may enter into . . . a guaranteed energy savings contract with a qualified provider to reduce the school corporation's or the political subdivision's energy consumption costs or operating costs if, after review of the report described in section 6 of this chapter, the governing body finds: (1) that the amount the governing body would spend on the energy conservation measures under the contract and that are recommended in the report is not likely to exceed the amount to be saved in energy consumption costs and other operating costs over ten (10) years from the date of installation if the recommendations in the report were followed; and (2) in the case of a guaranteed energy savings contract, the qualified provider provides a written guarantee as described in subsection (d)(2)."

The State Board of Accounts believes the following graphic best summarizes our audit position that IC 36-1-12.5-5(d) provides that the energy conservation measures (capital costs) must equal the savings in energy and operating costs. Otherwise the qualified provider will reimburse the school corporation or political subdivision for the difference between the guaranteed savings and the actual savings. Capital costs or avoidance thereof cannot also be used as an operating or energy savings.

IC 36-1-12.5-5(d) which states in part: "An agreement to participate in a ... guaranteed energy savings contract under this section must provide that: ... (2) in the case of the guaranteed energy savings contract: (A)

the savings in energy and operating costs *due to the energy conservation measures* are guaranteed to cover the costs of the payments for the measures; and (B) the qualified provider will reimburse the school corporation or political subdivision for the difference between the guaranteed savings and the actual savings ..." Our Emphasis.

the savings in energy and operating costs

=

due to the energy conservation measures

Otherwise

the qualified provider will reimburse the school corporation or political subdivision for the difference between the guaranteed savings and the actual savings

**COUNTY BULLETIN
and Uniform Compliance Guidelines**

Volume 333, Page 8

July 2001

Annual Reporting

IC 36-1-12.5-10 states "The governing body shall annually report to the department of commerce, in accordance with procedures established by the department of commerce, the savings resulting in the previous year from the guaranteed energy savings contract or utility energy efficiency program."

An Introduction to Guaranteed Energy Savings Contracts for Public Schools and Local Governments, published by the Indiana Department of Commerce, Energy Policy Division, states on page 22: "The report is to be submitted to the Energy Policy Division no later than 15 days after the end of each year the savings guarantee is in force."

Audit Exceptions

The State Board of Accounts will take audit exception to undocumented operating or energy savings claimed using procedures which "stipulate", "agree upon", or otherwise do not document actual operating or energy savings. The county should request repayment for undocumented operating or energy savings in accordance with IC 36-1-12.5-5(d)(2)(B). The State Board of Accounts will request repayment of undocumented operating or energy savings which have not been reimbursed to the county by the end of the contract period. Capital costs and capital cost avoidance items may be requested to be repaid at the time of audit.

Additionally, the State Board of Accounts will take audit exception if the county has not properly filed reports with the Indiana Department of Commerce, Energy Policy Division, as required by IC 36-1-12.5-10.

The State Board of Accounts is also of the audit position that political subdivisions are required to comply with all grant agreements, rules, regulations, bulletins, directives, letters, letter rulings and filing requirements concerning reports and other procedural matters of federal and state agencies, including opinions of the Attorney General of the State of Indiana, and court decisions. Governmental units should file accurate reports required by federal and state agencies. Noncompliance may require corrective action.

**COUNTY BULLETIN
and Uniform Compliance Guidelines**

Volume 333, Page 9

July 2001

QUESTIONS AND ANSWERS FROM COUNTY RECORDERS ANNUAL CONFERENCE

- Question #1:** If the deed does not state Corporate must we treat it as a "corporate" deed since it is granted by a corp? If it does not state "Corporate Deed" and is signed by corp - must it have a gross income tax statement?
- Answer #1:** See Recorder's Manual page 8-12. If the corporation is the seller of real property, yes, the corporation should provide the stamp from the County Treasurer stating Gross Income Tax has been paid, or an affidavit that no tax is due.
- Question #2:** Permanent records. Are our indices on computer considered permanent or must they be printed?
- Answer #2:** Review your retention schedule. Indexes are all permanent with two exceptions: 1) Index of Notices of Claim to Real Property - Destroy 55 years after satisfaction of lien, and 2) Index to Chattel Mortgage Receipts - Destroy
- Question #3:** Who is required to file an assumed business form in the Recorder's Office?
- Answer #3:** See page 8-18 of Recorder's Manual and IC 23-15-1-2. There are nine cases when a certificate of assumed name should be in the County Recorder's office of each county in which a place of business, or office is located.
- Question #4:** Certified Fax Copies. Two releases on one document. What is the correct charge for the second one? Right of ways for the state or counties. Do we charge for any right away documents?
- Answer #4:** Part 1, see Recorder's Manual page 8-8. The charge for the second release would be \$7.00 (No supplemental fee). Part 2, see Recorder's Manual page 8-11. Recorder may not charge a fee for recording a right of way for the state, county, or municipality (IC 8-13-22-1).
- Question #5:** Some questions have been asked regarding the ability to keep a running log for copies?
- Answer #5:** You may keep this type of a log to keep track of copies made to be billed to a company at a later date. Understand, that if you do not collect for copy service at the time service is rendered, you may be held personally responsible for these funds.
- Question #6:** If someone requests a copy and sends more money than is needed can we keep a certain amount of money?
- Answer #6:** See page 7-3 of the Recorder's Manual. For overpayments of \$3.00 or less then you can keep it and for overpayments of more than \$3.00 you should refund the amount back to the customer.
- Question #7:** How are we supposed to handle the overpayments on UCC's as we go into change?
- Answer #7:** See answer #6.

**COUNTY BULLETIN
and Uniform Compliance Guidelines**

Volume 333, Page 10

July 2001

QUESTIONS AND ANSWERS FROM COUNTY RECORDERS ANNUAL CONFERENCE - (Continued)

Question #8: Who can legally prepare a deed?

Answer #8: Anyone can prepare a deed.

Question #9: How can budget line items be combined and new line items created?

Answer #9: This can be done at budget time by the county council. Also, if it is within a major budget classification, transfers could be requested by the department head. If transferring appropriations from one major budget line item to another major then the county council must approve this.

Question #10: Do we have to keep our computer print outs for receipts and drawer balances?

Answer #10: Yes, you need to keep these printouts for audit purposes. Once the audit is completed and the report issued, then you would have to go through the destruction of public records procedure.

Question #11: Vacating of alleys. After commissioners approve the vacation who pays for recording? Sometimes people bring it in and we charge them but lately our auditor has been bringing them in and doesn't want charged cause its for commissioners. What if alley has several surrounding landowners, who pays?

Answer #11: Whoever records the document would be the party to pay the recording fee. IC 36-2-7-10 lists those documents that are exempt from the recording fees and if this recording is not an exempt item then the county must pay.

Question #12: Keeping daily print outs. Can they be disposed of at the end of the month, since the monthly reading matches the daily print out? This would save much needed space since the monthly report has only one page.

Answer #12: We must have the transaction level detail from the daily printouts or terminal access to that data for our audits. Additionally, the retention schedule requires you to maintain these records for six years.

Question #13: Do we charge for copies for city or county government?

Answer #13: Yes, you should charge in accordance with IC 36-2-7-10. You should provide access to the information to the city or county officials free of charge, as required by other statutes.

QUESTIONS AND ANSWERS FROM COUNTY AUDITORS SPRING CONFERENCE

Question #1: Our Recorder has started charging for copies of documents to other County government offices. The Auditors Office makes copies of all documents transferring property before they leave the office. Our Assessors Office has relied for years on the recorders office making an additional copy. This has proved a good check and balance system to make sure the Auditors Office has reviewed all documents recorded. The Recorders Office has even refused to physically make the copies stating the Assessors Office should be doing it themselves. Can the Auditors Assn. sponsor legislation to amend the law so government offices won't be charged?

**COUNTY BULLETIN
and Uniform Compliance Guidelines**

Volume 333, Page 11

July 2001

QUESTIONS AND ANSWERS FROM COUNTY AUDITORS SPRING CONFERENCE - (Continued)

- Answer #1:** IC 36-2-7-10 sets the fees and exemptions for transactions that occur in their office. There is no exemption for copies of other governmental units. This is something that might want to be considered for the next legislative session.
- Question #2:** Annual Audit/S.R.I. tax sale book. We are currently being audited and there is a question as to what is required to be in the tax sale book. (Besides what SRI currently supplies - which includes the form #137.) Could there be a decision made a list provided as to what these things are? We have had much confusion with field examiners our last two audits.
- Answer #2:** The tax sale record, prescribed form #137, is to be fully completed which if done, shows everything regarding that piece of property from the start of the tax sale to the end. There are no questions as to what needs to be completed, everything needs to be documented on the form 137. Our guess is that your audit problems pertain to reconciling the Tax Sale Redemption Fund and Tax Sale Surplus Fund to the tax sale record. This is not a normal procedure for SRI, and therefore, is required of you to do.
- Question #3:** Concerning tax sales, we redeem after one year with the purchasers permission. Is this correct?
- Answer #3:** IC 6-1.1-25-1 states that an occupant or person with a substantial property interest of public record may redeem the tract at any time before the date when the county auditor is required to issue a tax deed.
- Question #4:** Do court claims have to be approved by the County Commissioners?
- Answer #4:** No, please refer to County Auditor's Manual, page 7-4. They will still be published but the court approves their own claims.
- Question #5:** If an error in crediting occurs in the Treasurers office resulting in penalties being charged against a parcel, what form, if any, can be used to remove penalties? Also, some assessors are using 133's to remove penalties, is this correct?
- Answer #5:** Penalties charged in error should be removed from the tax duplicate using a certificate of error. Assessors should not be using 133's to remove penalties. See page 9-23 of the County Auditor's Manual for further discussion of this issue.
- Question #6:** You mentioned the judge's claims still have to be itemized - we receive court orders for special prosecutor's fees and pauper counsel fees all the time with no claim voucher or any other paperwork - do we prepare a claim and pay or can we send it back?
- Answer #6:** The key word is court order. We will not take an audit exception to the payment of these claims when you have been ordered to do it.
- Question #7:** Please clarify whether or not claims paid out of County General Superior or Circuit Court need commissioners approval or not?
- Answer #7:** See answer #4.
- Question #8:** What if the claim is not for a valid expense (ie, pizza for an employee luncheon)?

**COUNTY BULLETIN
and Uniform Compliance Guidelines**

Volume 333, Page 12

July 2001

QUESTIONS AND ANSWERS FROM COUNTY AUDITORS SPRING CONFERENCE - (Continued)

- Answer #8:** For court claims, once the court has approved them for payment then you are required to pay the claim. Bring it to our attention at the next audit to get questionable expenditure practices stopped. For all other claims of the county, you will present that claim to the commissioners and bring to their attention that the claim is questionable, then see what they do. If approved, then you will pay the claim.
- Question #9:** Our clerk of court submitted a claim which stated prepaid phone cards-calls made during election. I refused to pay it while the commissioners and treasurer wanted to pay it. Commissioners took claim to field examiner and examiner said if she itemized it, auditor can pay it, but auditor does not have to sign off on claim if she doesn't believe claim is true. Is this O.K.?
- Answer #9:** On any claim the county auditor receives for payment you have the right not to sign it if you feel it is not an appropriate claim or for an authorized purpose. It still is sent to the commissioners and should be noted that the claim is questionable.
- Question #10:** County Auditor and Treasurer balancing each month: Our commissioners have created a computer department. Currently, the computer room and the treasurer balance. Is this permissible or can the auditor insist upon control of the task? Does responsibility still fall upon the Auditor even if computer does it?
- Answer #10:** The county auditor is the fiscal officer of the county as defined in Indiana Law. Therefore, the records of the county auditor are the official records of the county and are to be reconciled with the county treasurer monthly. The computer department has no fiscal responsibilities and should not be involved with this task. As the fiscal officer, the county auditor will be responsible for any errors even though the computer department is doing the reconciliation.
- Question #11:** Taxpayer paid the spring installment. After C of E is done lets say the November taxes still owed are \$48.00 but credit due to the taxpayer on form 17T is \$148.00. Do I make one check for \$48.00 to Parke Co Treasurer % taxpayer and one only in taxpayers name for \$100.00?
- Answer #11:** Yes, this is they appropriate procedure to be done for this situation.
- Question #12:** Treasurer/Auditor Reconciliation - It is required by statute that the auditor and treasurer are to reconcile monthly. In our county, we give a report to our treasurer every month and she either says we are or aren't in balance. Last year, she let us (auditors office) know that we were in balance every month but came time for our annual audit, I find out, we were never really in balance. Am I required to look at her books to make sure we are in balance?
- Answer #12:** The auditor and treasurer need to get together each month and do this reconciliation jointly. This will protect either party from this type of thing happening during the audit.
- Question #13:** Our County Visitor Bureau has a checking account which was established during the previous auditor's term, is this O.K.? If so, they are wanting to pay regular claims (utilities, postage, etc.) out of it, is this O.K.?
- Answer #13:** Yes, this is allowed by IC 6-9-18-6.

**COUNTY BULLETIN
and Uniform Compliance Guidelines**

Volume 333, Page 13

July 2001

QUESTIONS AND ANSWERS FROM COUNTY AUDITORS SPRING CONFERENCE - (Continued)

- Question #14:** Is it OK to pay for a computer and software for the new Uniform Numbering System for parcels from the Auditors Plat Book Fund?
- Answer #14:** Yes, our audit position is that this type of expenditure falls within the statutory use of this fund.
- Question #15:** Why does a newly retired employee have to wait 90 days before working part-time or forfeit PERF benefit?
- Answer #15:** You need to contact PERF for the answer to this question.
- Question #16:** Can a faxed copy of an invoice or receipt be used with a claim or does it have to be an original?
- Answer #16:** Yes, a faxed copy of an invoice is acceptable to attach to the claim.
- Question #17:** Can an elected Township Assessor also work in the County Assessor's office as a deputy? (The Township Assessor is a year long salaried position) Also, the Township Assessor is the spouse of the County Assessor, the First Deputy Assessor is their son, and their 16 year old grandson is entering data part-time after school. How many "Conflict of Interest" statements do they need?
- Answer #17:** Yes, the elected township assessor can work in the county assessor's office. A conflict of interest statement should be filed for all three situations listed in the question.
- Question #18:** There has always been a line item appropriated for tax sale expenses in the Auditor's budget. I've recently been told many counties have a fund set up to use as a clearing fund of sorts for the tax sale since the fee charged to taxpayers offsets the postage incurred for sending notices. We have a vendor who handles our tax sale each year. What process do I use to set up this new fund? There wouldn't be any money received until after notices were sent on July 1st.
- Answer #18:** Payment of these tax sale expenses can be done either way, by appropriation or creating a new fund. If you are going to create a new fund, you should create it through a home rule ordinance.
- Question #19:** What is the position of the Auditor, when the sheriff holds a sheriff's sale of a piece of property, which was sold the month before at a tax sale? Who actually owns the property?
- Answer #19:** The tax sale deed would be the binding deed for this property.
- Question #20:** Since one vendor has about 60 counties, why can't we established a uniform set of fund numbering, whereby between the State Tax Commissioners and preparing your annual report would be much easier on everyone, and more timely.
- Answer #20:** This agency made a decision many years ago not to go this route, and with the many vendors already having their system written and the costs associated with rewriting the system, we do not believe this is in the best interest of all parties involved.

**COUNTY BULLETIN
and Uniform Compliance Guidelines**

Volume 333, Page 14

July 2001

QUESTIONS AND ANSWERS FROM COUNTY AUDITORS SPRING CONFERENCE - (Continued)

- Question #21:** If the county pays more than the state rate for millage, does the difference have to be accounted for as income to the employee? I was told this about 10 years ago when I first started working in the Auditor's Office. If so, how is this handled?
- Answer #21:** No, if your county pays more than the federal rate then that is income to the employee.
- Question #22:** If our county attorney is also the attorney for the local hospital (the Commissioners appoint the hospital board) and also the attorney for the bank where the county does their banking and who gets more of the investments than any other bank in the county, is this a conflict of interest on the attorney's part? If not, why not?
- Answer #22:** No, it is not a conflict of interest because the attorney is not a public official.
- Question #23:** When a property has been sold at a tax sale and then is sold at a sheriff sale, what/or how is this situation handled? Who is responsible for doing what?
- Answer #23:** See answer #19. The sheriff, auditor, and treasurer need to communicate to make sure these type of things do not happen.
- Question #24:** A property is sold at a sheriff sale - all real estate taxes were paid; however, the ditch assessments were in arrear a year and were not paid. (this year the property would normally go to tax sale). If the ditch assessment is not paid by July 1st, should we go ahead with the tax sale?
- Answer #24:** This is a legal question that needs to be addressed by the county attorney.
- Question #25:** When the county auditor is required to "issue the tax sale deed", does this mean that the county auditor is actually required to "type" and prepare the deed? Or should the county attorney or bidder supply the auditor with the deed?
- Answer #25:** The deed could be prepared by any of the persons you mention in the question. IC 6-1.1-25-5 shows the language and format of the deed.
- Question #26:** Our county notified a bidder three times on two properties which were redeemed. The bidder only surrendered one of his certificates. (He didn't read the letter very carefully). He has now paid the spring taxes and wants his money back. We have discussed this with our tax sale company and have agreed that this person has just done the taxpayer a "favor". Do you agree?
- Answer #26:** Yes, we would agree. The bidder would not be entitled to a refund.
- Question #27:** Property record shows maiden name and petition was signed using married name. Does it count or not? What happens if two people of the same name are involved, one petitions one way and the second petitions another?
- Answer #27:** This is an issue you and your attorney need to address. If both people are property owners then this should not be a problem. If only one person is a property owner, then both votes would have to be thrown out, since you don't know which way they intended to vote.

**COUNTY BULLETIN
and Uniform Compliance Guidelines**

Volume 333, Page 15

July 2001

QUESTIONS AND ANSWERS FROM COUNTY AUDITORS SPRING CONFERENCE - (Continued)

- Question #28:** What happens when several taxpayers have signed the petition in Phase I then when Phase II is in effect they change their mind and sign the petition in favor of? How does that effect the count in both Phase I and II? Could it effect wether or not Phase II continues due to the change in the number of signatures validated in Phase I?
- Answer #28:** Phase I and Phase II have nothing to do with each other. They are mutually exclusive. Phase I votes are counted and the tallies are cleared. Phase II starts all over at zero. People have every right to change their mind between Phase I and Phase II.
- Question #29:** When verifying property ownership for remonstrance purposes, is this for the March 1st date or does this mean current? Example: What if this person sold all of their property on March 2nd (or bought on March 2nd)?
- Answer #29:** You should be verifying ownership currently. March 1st does not apply in this situation.
- Question #30:** Do you have to invite the President of the Commissioner and the Council and the County Attorney to the exit conference?
- Answer #30:** Our Board's position is to invite the presidents of the council and commissioners. They may choose to invite their attorney. Additionally, we would invite county officers and employees that have knowledge pertaining to audit findings.
- Question #31:** Are there any written rules or requirements regarding advance draws of excise and property tax monies? i.e. who do you advance to? How much are you required to advance?
- Answer #31:** The statute addressing advance draws may be found in IC 5-13-6-3. The advance draw can be to any governmental unit who upon a written request asks for it. You may advance up to 95% of the taxes collected at the time of the advance.
- Question #32:** Companies paying property taxes to our county are requesting W-9's. Are we obligated to send them? We don't do business with these companies otherwise. What is the maximum allowable disclosure fee charge? Discuss HB 1503. Can disclosure and transfer fees be put into a special fund or line item to accumulate funding for ortho photography?
- Answer #32:** We do not believe that it is necessary to give them W-9's. The maximum allowable disclosure fee is \$5. Currently, the sales disclosure fee is split up with 80% going to the county and 20% going to the state. Upon the effective date of the new law, 80% of the sales disclosure fee will go into a special fund. The transfer fee must go into a fund dedicated for use in updating and maintaining plat records.
- Question #33:** Regarding GASB 34, what guidance relative to the financial aspect of GASB 34 will the State Tax Board play? Regarding the budget process and operating balances of tax rated funds.
- Answer #33:** GASB 34 is a reporting statement. Some of the information regarding budgeting will be accumulated and reported but GASB 34 will not require any involvement of the Tax Board.

**COUNTY BULLETIN
and Uniform Compliance Guidelines**

Volume 333, Page 16

July 2001

QUESTIONS AND ANSWERS FROM COUNTY AUDITORS SPRING CONFERENCE - (Continued)

- Question #34:** Marijuana eradication program fee in IC 33-19-6-6. What can these funds be used for? Give specific examples please, large balances are accumulating. It needs to be used but on what is the question?
- Answer #34:** These fees are to be used by the weed control board for the elimination of wild marijuana plants.
- Question #35:** How do we use the user Jury Fee Fund? Who starts the process?
- Answer #35:** The clerk goes to the county council with a claim for jury fees collected for each court. The council then appropriates the money for the payment of jury fees.
- Question #36:** Do the elected township trustees have to file a conflict of interest for their husband or wife they've appointed as their deputy?
- Answer #36:** Yes, we recommend this.
- Question #37:** Our County Commissioners won't allow the "County Soil and Water District" to utilize the county attorney because they are not actually a county office. Is this true? The county does pay 75% of the SWD secretary's salary each year.
- Answer #37:** The county commissioners contract with the county attorney for the services to be provided and in the contract should state what they are contracting for. There is no requirement that the county contract for legal services for the Soil and Water Conservation District. There is nothing to prohibit it if the commissioners put that in the contract.
- Question #38:** On tax sale redemption, can we refuse to collect from property owner of record and in turn reimburse the purchaser for expenses listed on that 137 B without receipts for things such as title search, attorney fees and cost of giving notice?
- Answer #38:** Receipts are not necessary for items certified on Form 137B.
- Question #39:** Is there a way to get a complete explanation of the tax sale bill, such as what Tammy White gave? That was a lot of information to absorb at one time, especially the changes for the coming tax sale.
- Answer #39:** You can see the complete bill and further explanations in the Indiana Code and The County Bulletin law digest.
- Question #40:** On processing payment for our personnel who prepares court transcripts, we have to determine if this is payroll or a 1099 pay in order to satisfy IRS. Are there better guidelines to assist in this decision?
- Answer #40:** You should contact the IRS to get the publications regarding this issue. We also will try to get a representative of the IRS to attend a future meeting to address these requirements.
- Question #41:** What about a deputy assessor taking an oath of office for assessing? Do we still have to give the oath of office to these deputy assessors before they start the assessing process?

**COUNTY BULLETIN
and Uniform Compliance Guidelines**

Volume 333, Page 17

July 2001

QUESTIONS AND ANSWERS FROM COUNTY AUDITORS SPRING CONFERENCE - (Continued)

Answer #41: No, under IC 5-4-1-1 an oath is not required.

Question #42: When problems are found with things we have received, be it computer discs, letters, etc. that might contain incorrect or unclear information, could the state agencies use the E-mail listing Chris Beeson, Wayne County Auditor, has created to inform us in a timely fashion? Case in point, the annual report computer program had some problems. I have talked to several auditors who either they or their staff spent many hours trying to make the software work correctly. An E-mail or even a note in the mail could have saved several working hours in the state.

Answer #42: This is a good suggestion and we will see about implementing this in the future.

Question #43: At any time in the past, were counties ever issued any type of manual related to grants? Does such a manual exist? If one exists, who would I need to contact to obtain one? I have received commercial advertisements concerning grant manuals, but I wondered if there were any government issued manuals that explain grants further.

Answer #43: There has never been a manual issued by the State Board of Accounts on grants. There are a number of publications issued by various groups that may help, such as Office of Management and Budget, Circular A-133, Federal Grantor Agency, and Catalog of Financial Assistance. If you need further information regarding these publications please contact this office.

Question #44: What should the relationship be of sewer lines recorded to those certified to the auditor for billing? The sewer district records more than once, then certifies in the fall for payment the following spring. Should the tax bills we are issuing be equal to or less than the money recorded on the multiple liens in the Recorder's Office? Would there ever be a time when we would be billing for more money than what is recorded as a lien?

Answer #44: The amount billed would be more than the lien because the billing will include not only the delinquencies but also penalties, recording fees, and release fees.

Question #45: One of our sewer districts state that the recording of the lien is a separate act from the certification, but wants us to use the release of the lien to remove the assessment when it has been certified to wrong person/parcel. We have accrued interest so what we are being asked to remove is not as great as the tax liability. Is there a specific form to use to remove sewer liens?

Answer #45: You should use a Certificate of Error.

Question #46: Sometimes the assessors have omitted assessments we set up as "extras" each year. How do you keep these separate from the ones the company has discovered and turned into the assessor?

Answer #46: This will be a problem. Somehow you will need to keep track of the omitted assessments from the extras since the payment to the company is based only upon what they find.

Question #47: Please define travel policy. Does lodging and millage come out of unappropriated as well as meals, and registration from appropriated money?

**COUNTY BULLETIN
and Uniform Compliance Guidelines**

Volume 333, Page 18

July 2001

QUESTIONS AND ANSWERS FROM COUNTY AUDITORS SPRING CONFERENCE - (Continued)

- Answer #47:** The travel policy is whatever is adopted in your county giving guidance on permitted business travel and reimbursement or payment of related expenses. By statute, for State Board of Accounts called meetings, lodging, mileage, and meals may be paid from unappropriated funds while the registration fee must come from appropriated funds.
- Question #48:** Do jurors get paid mileage according to the state rate or the county travel policy?
- Answer #48:** IC 33-19-1-4, mileage paid to jurors is the rate paid to state officers.
- Question #49:** Will there be a synopsis of the tax sale revisions? (i.e. effective dates, actual changes)
- Answer #49:** Yes, the digest of laws in the County Bulletin.
- Question #50:** When will we receive the record retention schedule book?
- Answer #50:** You should have received the County Auditor's retention schedule. If you need a copy or the booklet on destruction of public records, contact the Indiana Commission on Public Records.
- Question #51:** The Recorder has a Perpetual Fund that she pays for certain items out of. Currently, we are advertising those claims before payment and she believes since they are not being paid from the General Fund that advertisement is not necessary. Is this being handled correctly?
- Answer #51:** Claims paid from the Recorder's Perpetuation Fund should be advertised prior to payment.
- Question #52:** The Recorder has a Perpetual Fund that can be used for the preservation of records. She would like to take a portion of that Fund and repeal it into the General Fund and ask for an appropriation in order to fund a new position in her office. Is this an accepted use of those funds and can they be repealed into the General Fund for this use?
- Answer #52:** If the position is for the preserving of records then this salary can be paid from the Perpetuation Fund. However, the part to be paid from the Perpetuation Fund should be paid directly from that fund and not transferred to the County General Fund.
- Question #53:** Excess interest money that is collecting in the Congressional School Interest Fund, what happens to the excess that is not sent to the schools?
- Answer #53:** It stays in the fund and cannot be used for any other purpose.
- Question #54:** Is the Exit Conference a public meeting?
- Answer #54:** Not a public meeting if just the presidents of the boards are present. If a quorum of members are going to be present then an executive session will need to be called.

**COUNTY BULLETIN
and Uniform Compliance Guidelines**

Volume 333, Page 19

July 2001

QUESTIONS AND ANSWERS FROM COUNTY AUDITORS SPRING CONFERENCE - (Continued)

Question #55: We have a property owner who sold her entire parcel off into lots; so the last deed that came through the auditors office received the "parent parcel". During the sale of this parcel, the buyers and sellers made the "agreement" that the buyers would pay their "portion" of their taxes. So when the tax bills went out this spring, those buyers who did not come into the auditors office last year and have their taxes calculated their delinquent taxes showed up on the "parent parcel". Of course, once the owner of the "parent parcel" received her tax bill she came in and let the auditor have it. The auditor responded by "I will talk to the county attorney about this". The county attorney replied by saying-the owner of the "parent parcel" needs to pay those delinquent taxes or the property will go on tax sale this fall and then file suit with the other owners who have not paid their "portion" of taxes. Do you agree? Does the auditor have the authority to "move" those delinquencies to the other buyers parcel? In our county the taxpayer comes into the treasurer's office to pay taxes-if it is a split parcel, the tax payer then must go to the assessor's office to get their assessment breakdown and then the taxpayer goes to the auditor to wait on them to hand calculate their taxes. Finally, the taxpayer must go back to the treasurers office to pay their taxes. It just doesn't seem as if we are serving the taxpayers in a efficient manner.

Answer #55: Whenever a large parcel is being split into smaller parcels or when smaller parcels are being combined into a large parcel, then all the taxes for the year should be paid thus eliminating the possibility of this occurring. We would agree with your attorney in this case that the parent parcel owner pays or it will be sold at tax sale. Finally, the procedure you address at the end of the question is the proper procedure to follow in this matter. It may seem inefficient to the taxpayer but is necessary for the proper accounting and flow of these transactions.